Each violation shall constitute a separate violation as to each mortgage or loan application.

[65 FR 9087, Feb. 23, 2000, as amended at 72 FR 5588, Feb. 6, 2007; 77 FR 51468, Aug. 24, 2012; 78 FR 4059, Jan. 18, 2013]

§ 30.40 Loan guarantees for Indian housing.

(a) *General*. The Assistant Secretary for Public and Indian Housing (or his/her designee) may initiate a civil money penalty action against any mortgagee or holder of a guarantee certificate who knowingly and materially violates the provisions of 12 U.S.C. 1715z–13a(g)(2) concerning loan guarantees for Indian housing.

(b) *Continuing violation*. Each day that a violation continues shall constitute a separate violation.

(c) *Amount of penalty*. The maximum penalty is $8,000 for each violation, up to a limit of $1,525,000 for all violations committed during any one-year period. Each violation shall constitute a separate violation as to each mortgage or loan application.

[61 FR 50215, Sept. 24, 1996, as amended at 65 FR 9087, Feb. 23, 2000; 68 FR 12788, Mar. 17, 2003; 72 FR 5588, Feb. 6, 2007; 78 FR 4059, Jan. 18, 2013]

§ 30.45 Multifamily and section 202 or 811 mortgagors.

(a) *Definitions*. The following definitions apply to this section only:

(1) *Agent employed to manage the property that has an identity of interest* and *identity of interest agent*. An entity:

(i) That has management responsibility for a project;

(ii) In which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

(iii) Over which the ownership entity exerts effective control.

(2) *Effective control*. The ability to direct, alter, supervise, or otherwise influence the actions, policies, decisions, duties, employment, or personnel of the management agent.

(3) *Entity*. An individual corporation; company; association; partnership; authority; firm; society; trust; state, local government or agency thereof; or

any other organization or group of people.

(4) *Multifamily property*. Property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to the National Housing Act (12 U.S.C. 1702 *et seq.*).

(5) *Ownership interest*. Any direct or indirect interest in the stock, partnership interests, beneficial interests (for a trust) or other medium of equity participation. An indirect interest includes equity participation in any entity that holds a management interest (e.g. general partner, managing member of an LLC, majority stockholder, trustee) or minimum equity interest (e.g., a 25% or more limited partner, 10% or more stockholder) in the ownership entity of the management agent.

(6) *Section 202 or 811 property*. Property that includes 5 or more living units and that has a mortgage held pursuant to a direct loan or capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) or capital advances under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

(b) *Violation of agreement*—(1) *General*. The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against a mortgagor of a section 202 or 811 property or a mortgagor, general partner of a partnership mortgagor, or any officer or director of a corporate mortgagor of a multifamily property who:

(i) Has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities; and

(ii) Knowingly and materially fails to comply with any of the commitments listed in paragraph (b)(1)(i) of this section.

(2) *Maximum penalty*. The maximum penalty for each violation under paragraph (b) of this section is the amount

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